

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
No. 7:17-cv-00071-FL

JOHNNY SMALL,

Plaintiff,

v.

CITY OF WILMINGTON, J.J. LIGHTNER,  
DONNA BROWN, WAYNE NORRIS,  
DARRYL NESTER, JOSEPH  
NEUSCHAEFER, BRUCE HICKMAN,  
UNKNOWN EMPLOYEES OF THE  
WILMINGTON POLICE DEPARTMENT,  
and UNKNOWN SURETY FOR THE CITY  
OF WILMINGTON,

Defendants.

**DEFENDANTS DONNA BROWN,  
WAYNE NORRIS, DARRYL NESTER,  
AND JOSEPH NEUSCHAEFER'S  
ANSWER TO PLAINTIFF'S FIRST  
AMENDED COMPLAINT**

Fed. R. Civ. P. 15

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Defendants Donna Brown (n/k/a Donna Brown Smith), Wayne Norris, Darryl Nester, and Joseph Neuschafer (misnamed in the plaintiff's First Amended Complaint as Joseph Neuschaefer) respond to plaintiff's First Amended Complaint as follows:

These answering defendants reiterate, adopt, and incorporate all of the numbered responses and affirmative defenses contained in their original answer [Doc. #26] in response to the corresponding, identical portions of the First Amended Complaint. In further response to the amended allegation in paragraph 13 of plaintiff's First Amended Complaint, these answering defendants admit that the listed officers are citizens and residents of North Carolina, and at all times relevant to the Complaint were employed by the Wilmington Police Department and were acting under the color of law and within the scope of their employment. It is further admitted that plaintiff purports to

sue these answering defendants in this action in their individual capacities. Except as herein admitted, the remaining allegations of paragraph 13 of the plaintiff's First Amended Complaint are denied.

Any other allegation of the First Amended Complaint, which has not been expressly admitted in the answering defendants' initially filed Answer [Doc. #26], is hereby denied.

WHEREFORE, having answered and responded to plaintiff's First Amended Complaint, these answering defendants respectfully request that plaintiff have and recover nothing, that said Complaint be dismissed with prejudice, that all triable issues be tried by a jury, that the answering defendants recover their costs, including reasonable attorneys' fees, and that this Court grant such other relief as it deems just, equitable, and proper.

This is the 17th day of April, 2018.

/s/ Brian H. Alligood  
Brian H. Alligood  
N.C. State Bar No. 27361  
BOVIS KYLE BURCH & MEDLIN, LLC  
800 Green Valley Rd., Suite 102  
Greensboro, NC 27408  
[BAlligood@boviskyle.com](mailto:BAlligood@boviskyle.com)  
Telephone: (336) 907-3265  
Facsimile: (336) 907-4178  
*Attorney for Defendants Donna Brown,  
Wayne Norris, Darryl Nester, and Joseph  
Neuschafer*

### **CERTIFICATE OF SERVICE**

I certify that on April 17, 2018, I electronically filed **DEFENDANTS DONNA BROWN, WAYNE NORRIS, DARRYL NESTER, AND JOSEPH NEUSCHAFER'S ANSWER TO PLAINTIFF'S FIRST AMENDED COMPLAINT** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Ms. Cindy Tsai  
Mr. Jon I. Loevy  
Ms. Tara E. Thompson  
Ms. Aisha N. Davis  
Mr. Anthony Balkissoon  
Ms. Gayle M. Horn  
Ms. Katie Roche  
LOEVY & LOEVY  
311 N. Aberdeen St., 3<sup>rd</sup> Floor  
Chicago, IL 60607  
*Attorneys for Plaintiff*

Mr. David S. Rudolf  
RUDOLF WIDENHOUSE  
225 E. Worthington Ave., Suite 200  
Charlotte, NC 28203  
*Attorney for Plaintiff*

Mr. Scott C. Hart  
SUMRELL, SUGG, CARMICHAEL,  
HICKS & HART  
PO Box 889  
New Bern, NC 28563  
*Attorney for Defendant City of  
Wilmington*

Ms. Meredith Turner Everhart  
PO Box 1810  
Wilmington, NC 28402  
*Attorney for Defendant City of  
Wilmington*

Mr. David G. Harris, II  
Mr. David L. Brown  
GOLDBERG SEGALLA  
800 Green Valley Rd., Suite 302  
Greensboro, NC 27408  
*Attorneys for Defendant J.J. Lightner*

Mr. John Felix Green, II  
HALL & GREEN  
718 Market St.  
Wilmington, NC 28401  
*Attorney for Wayne Norris*

This is the 17th day of April, 2018.

/s/ Brian H. Alligood  
Brian H. Alligood  
N.C. State Bar No. 27361  
BOVIS KYLE BURCH & MEDLIN, LLC  
800 Green Valley Rd., Suite 102  
Greensboro, NC 27408  
[BAlligood@boviskyle.com](mailto:BAlligood@boviskyle.com)  
Telephone: (336) 907-3265  
Facsimile: (336) 907-4178  
*Attorney for Defendants Donna Brown,  
Wayne Norris, Darryl Nester, and Joseph  
Neuschafer*